

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 16 JUN 2004

WIPO PCT

Applicant's or agent's file reference 47173	FOR FURTHER ACTION		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/IT 03/00415	International filing date (day/month/year) 02.07.2003	Priority date (day/month/year) 05.07.2002	
International Patent Classification (IPC) or both national classification and IPC B65D5/42, B65D5/42			
Applicant PROJECT S.A.S. DI MASSIMO MENICHELLI & C. et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application

Date of submission of the demand 03.01.2004	Date of completion of this report 15.06.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Appelt, L Telephone No. +49 89 2399-2570

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No.

PCT/I/T 03/00415

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed"* and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-10 received on 20.04.2004 with letter of 19.04.2004

Drawings, Sheets

1/2, 2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No.

PCT/IT 03/00415

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)
6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
- the entire international application,
- claims Nos. 7-10
- because:
- the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
- the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 7-10 are so unclear that no meaningful opinion could be formed (specify):
- see separate sheet**
- the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- no international search report has been established for the said claims Nos.
2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:
- the written form has not been furnished or does not comply with the Standard.
- the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Yes: Claims	1-6
	No: Claims	
Inventive step (IS)	Yes: Claims	5
	No: Claims	1-4,6
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

2. Citations and explanations

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/IT 03/00415

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

According to the introductory wording of claim 7, this claim is concerned with a procedure for the production of a box according to at least one of the previous claims. Since the previous claims are either constituted by independent claim 1 or by claims dependent thereon, it is clear that the procedure according to claim 7 should at least be adapted to form a box as defined in claim 1.

This is, however, not the case. In particular, claim 7 fails to indicate the existence of the appendage to be glued to the inside of one of the sides. This appendage - apparently mentioned in the dependent claim 8 - is not optional in forming a box as defined in claim 1. Contrary thereto, it is one of the essential features of the invention.

Furthermore, claim 7 fails to define a blank of cardboard or similar material comprising a series of face flaps, side flaps, a dividing wall, a first and a second appendage and first and second closing flaps. Nothing is said in claim 7 about how these flaps are to be folded to form a box according to claim 1 which would be glued at only one single surface.

Finally, claim 7 fails to indicate the opening in one of the side walls and the cut out portion closing the opening.

Accordingly, the subject-matter of claim 7 and the dependent claims 8 to 10 is not defined in a sufficient manner and, therefore, totally unclear. Thus, claim 7 to 10 do not meet the requirements of Article 6 PCT.

Additionally, it is pointed out that the characterising features of claim 7 are only concerned with the production of a box as defined in the present claim 5 (and not - as indicated in the preamble of claim 7 - with the production of a box according to any of the other claims 1 to 6).

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Claim 1

When interpreting claim 1 in combination with what is disclosed in the description and the drawings, the following has to be stated :

- a) The wording "... an appendage (9) for gluing to ..." line 7 of claim 1 should read "... an appendage (9) glued to ...", since claim 1 is directed to the box and not to the blank for forming the box.
- b) The wording at the beginning of the characterising portion should read "... said additional compartment (12) is devoid of a closing wall at one end ...", since the compartment clearly includes three closing walls.

The document EP-A-0911266 (D1) discloses a box according to the preamble of claim 1. According to D1, the information sheet may be glued to the portion closing the opening or to the dividing wall. The sheet may also be loosely fitted within the compartment (see column 2, line 45 to line 49).

The subject-matter of claim 1 differs from this box in that the additional compartment is devoid of a closing wall at one end and presents an aperture which is always accessible for the extraction and insertion of the information sheet independently of the opening or closing of the main compartment.

The document WO-A-00/20289 (D2) discloses a box from which the subject-matter of claim 1 differs in that the opening in one of the two faces is defined by an incomplete cut line for securing at least a portion of material covering the opening and which portion must be removed to allow extraction of the sheet-like contents to be effected through said opening.

In view of these two documents, the skilled man may consider two approaches in order to modify the boxes disclosed in D1 or in D2.

Starting from D1, the skilled man might wish to access the information sheet without destroying the cover of the side wall or - at least - to provide a means for inspection whether the sheet is still in the compartment without destruction of the side wall.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IT 03/00415

From D2, the skilled man can obtain the information that such a problem can be easily solved by leaving the upper end of the additional compartment open independently of the opening or closing of the main compartment.

Although D2 discloses a tab (10) for preventing the sheet from accidentally slipping out of the additional compartment, it is unambiguously clear from D2 that the sheet is always readily accessible through the open side of the additional compartment (see in particular Fig. 1 and 2).

To obtain exactly the same effect in the box as disclosed in the document D1, the skilled man would simply have to make the closing flap slightly shorter which would result in the information sheet being accessible either by rupture of the portion closing the opening or through the then existing slot on top of the additional compartment. It is not conceivable that the skilled man would encounter any difficulties in applying this known principle to the box disclosed in D1.

On the other hand, the skilled man might also wish to provide a tamper indicating means in the box according to D2 which would indicate that the information sheet has previously been removed from the additional compartment. Having regard to the teaching set out in D1, it is obvious for the skilled man to apply a rupturable wall portion to the opening (11) disclosed in D2 which would have to be torn away in order to have a better grip on the sheet in the additional compartment.

Accordingly, starting either from D1 or from D2, the skilled man would come to the solution defined in the present claim 1 in an obvious manner.

Consequently, the present claim 1 does not meet the requirements of Article 33 (3) PCT, because its subject-matter lacks an inventive step.

Claims 2 to 4 and 6

It appears that the additional subject-matter of the claims 2, 3, 4 and 6 is comprised in the general knowledge of the skilled man.

Accordingly, it would appear that the present claims 2, 3, 4 and 6 do also not meet the requirements of Article 33 (3) PCT.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IT 03/00415

Claim 5

It is unambiguously clear from the whole content of the description and the drawings that the information sheet is only accessible for extraction and insertion from or into the completed box when the portion covering the opening is ruptured from its margins.

In fact, the rupturable portion defined in claim 1 makes no sense if the information sheet would be readily accessible from the open end of the additional compartment. The gist of the invention lies in the combinatory effect obtainable by the rupturable portion and the open end of the additional compartment, in other words, in the fact that the sheet can only be removed from the additional compartment when the rupturable portion has been removed.

Notwithstanding the fact that the lack of this feature results in a lack of clarity of claim 1 (Article 6 PCT), it is also stated that the inclusion of this particular feature - as it is defined in claim 5 - would not only remove the lack of clarity but would also result in an independent claim which meets the requirements of Article 33 (2), (3) and (4) PCT, its subject-matter being novel, inventive and capable of industrial applicability.

- 7 -

CLAIMS

1. A box in cardboard or a similar material for medicines or other products, including a main compartment and an additional compartment (12) – for an information sheet relative to the packaged product - separated with respect to said main compartment by a dividing wall (11), said box being defined by four sections forming two opposite faces (1 and 5) and two opposite sides (3 and 7) and by an appendage (9) for gluing to the inside of one (7) of the sides, as well as two closing walls (15 and 17), wherein: one (1) of the two faces presents an opening (19) defined by an incomplete cut line for securing at least a portion (1Y) of the material covering the opening (19), which portion (1Y) must be removed to allow the action of extracting the sheet-like contents of said additional compartment to be effected through said opening (19); and the glued appendage (9) is shaped approximately like the side (7) to which it is glued and extends to form both the dividing wall (11) that is shaped like a face and is internally adjacent to said face (1) equipped with an opening (19), and a successive appendage (13) destined to be positioned inside and against the other (3) of said two sides (3 and 7);
characterized in that said additional compartment (12) is devoid of a closing wall and presents an aperture (12A) which is always accessible for the extraction and insertion of said information sheet (F) independently of the opening or closing of said main compartment.
2. A box according to claim 1, characterized in that one (17) of said closing walls extends from the dividing wall (11).
3. A box according to claim 1, characterized in that one (117) of said closing walls extends from the face (5) opposite to the face (1) equipped with the opening (19).
4. A box according to at least one of the previous claims, characterized in that the information sheet is repeatedly folded, stabilized in the folded position, and lightly glued to the cardboard material of the box.
5. A box according to one or more of the previous claims, characterized in that said information sheet is glued to said portion (1Y) covering said opening (19), that must be removed to allow extraction of said sheet.
6. A box according to one or more of the previous claims,

BEST AVAILABLE COPY

- 8 -

characterized in that said portion (1Y) of material covering said opening (19) is smaller than said opening.

7. A procedure for the automated production of a box according to at least one of the previous claims, including the steps of, creating a dividing wall (11) and of a contiguous appendage (13), destined to form a stabilizing flap for said wall, characterized in that the information sheet (F) is folded, stabilized with a tear-off adhesive and fed – after light gluing – during making of the box for gluing onto one of the walls of the additional compartment, during the paper-product machining processes.
- 5 10 15 10. A procedure according to claim 7, characterized in that said dividing wall (11) is formed as an extension of the flap (9) destined to be glued for making the body of the box.
9. A procedure according to claim 7 or 8, characterized in that in the external face (1) an opening (19) is formed having a portion (1Y) held on by anchoring sections that can be torn to allow removal of said portion (1Y).
10. A procedure according to at least claim 9, characterized in that the sheet (F) is glued to the inside surface of said portion (1Y).

BEST AVAILABLE COPY